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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,808

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Dimitri Philippou

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EXAMINER

AFTERGUT, JEFF H

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

10/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,808	Applicant(s) PHILIPPOU, DIMITRI	
	Examiner Jeff H. Aftergut	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-75 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 34-75 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12-4-06</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 101

1. Claims 34-75 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. Applicant defines in broad terms a system of assembling via molecular and/or sub-atomic manufacturing of an object defined by signals from a transmission means which transmits the signals provided by at least one input means. There is no example provided in the disclosure as to how one could usefully make an object defined by signals, sub-atomic particles, atomic particles and impulses of energy which are transmitted via a transmission means from an input means. It simply is not deemed physically possible to manufacture an object from transmitted signals as defined. The subject matter courts have found to be outside of, or exceptions to, the four statutory categories of invention is limited to abstract ideas, laws of nature and natural phenomena. Here the applicant is claiming an abstract idea to replicate matter and/or transport matter from one local to another which is just that, an abstract idea which is not entitled to patenting as it does not satisfy the requirements of being one of statutory subject matter.

An invention that is “inoperative” (i.e. does not operate to produce the results claimed by the patent applicant) is not a “useful” invention in the meaning of the patent law, see Newman v Quigg, 11 USPQ2d 1340, 1345. It is clear that one cannot possibly assemble with at least one output means by at least one assembly means selected from the group comprising molecular, subatomic and impulses of energy which receive these elements from the transmission means and are capable of manufacturing an object from the molecular, sub-atomic, or impulses of energy. In other words, assembly of an object

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from impulses of energy, subatomic particles, and impulses of energy which are inputted and supplied to a transmission means is simply not physically possible in the manner described. It is that of science fiction which relates to replication from energy alone. There are numerous examples of such things lacking utility and applicant is referred to MPEP 2107.01 as the claimed invention lacks utility as the claimed process is not physically possible to perform.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 34-75 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As discussed above, the assembly system proposed by applicant simply is not capable of functioning in the manner described. One cannot make an object of matter from subatomic or atomic particles and/or impulses of energy which are inputted and transmitted from one local to another to make matter. Matter cannot be created from energy to the best of my knowledge. Additionally the manner of transmitting and inputting the atomic and subatomic particles is not described in any meaningful manner to make it so that one can make and/or use the invention in the manner described.

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There are simply no examples described in the disclosure which would have provided evidence that the claimed operation was physically possible.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 34, 37-40, 43, 44, 47-67, 70 72 and 73 are rejected under 35 U.S.C. 102(b) as being fully anticipated by PCT WO 03/019299.

PCT '299 suggested that those skilled in the art knew at the time the invention was made to provide at least one transmission means for at least one element which includes signals, and/or impulses of energy, at least one input means for providing at least one element selected from signals and impulses of energy to be transmitted by the transmission means and at least one output means having at least one assembly means selected from the group consisting of molecular, subatomic and impulses of energy assembling means adapted to receive the elements from the transmission means and capable of manufacturing at least one object from the elements. More specifically one was able to create a holographic image in a lecture hall from an object which was disposed in another area or room with a remote means which directed a system to transmit the image from the location of the object to the lecture hall, for example. The applicant is referred to the abstract of the disclosure and the remainder of the document.

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6. Claims 34-75 are rejected under 35 U.S.C. 102(b) as being anticipated by Sternbach et al (the portions from "Star Trek Then Next Generation Technical Manual").

Not only did Sternbach et al suggested that one skilled in the art would have replicated food in a food replicator from input and signals which directed an assembly means to replicate food based upon the signals and transmission means to create the same, the reference additionally suggested that teleportation means was known which included transportation of objects and individuals in what is referred to as a transporter. The reference suggested that one skilled in the art would have additionally included a disassembly means within the system which disassembled the object at one location and sent the object via subatomic particles to another location where the object was recreated based upon the information retained relating to the signals created in the system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:30-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff H. Aftergut/
Primary Examiner
Art Unit 1791

JHA
September 29, 2009